



New Jersey Department of Children and Families Policy Manual

Manual:	NJAC	NJ Administrative Code Excerpts	Effective Date:
Title	10	Human Services	
Chapter	121A	Manual Of Requirements For Adoption Agencies	11/3/2008
Subchapter:	4	Personnel	
Section	5	Criminal History Record Information (CHRI) background checks (N.J.A.C. 10:121A-4.5)	

§10:121A-4.5 Criminal History Record Information (CHRI) background checks

(a) As a condition of securing and maintaining a certificate, the agency shall ensure that a State and Federal CHRI fingerprint background check, in keeping with P.L. 2008, c. 114, is completed for the director and each staff member.

1. If the director refuses to consent to or cooperate in a CHRI background check, the Department shall deny, suspend, revoke or refuse to renew the certificate, as applicable. The agency may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 10:121A-2.3.

2. If a staff member refuses to consent to or cooperate in a CHRI background check, the agency shall immediately terminate the staff member's employment at the agency.

(b) If any person identified in (a) above has a record of criminal conviction, the Department of Children and Families shall review the record with respect to the type and date of the criminal offense and make a determination as to the suitability of the person to administer or work at the agency.

(c) A person shall be disqualified from administering or working at the agency if that person ever committed a crime that resulted in a conviction for:

1. A crime against a child, including endangering the welfare of a child and child pornography pursuant to N.J.S.A. 2C:24-4;

2. Abuse, abandonment or neglect of a child pursuant to N.J.S.A. 9:6-3;

3. Endangering the welfare of an incompetent person pursuant to N.J.S.A. 2C:24-7;

4. Sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.A. 2C:14-2 through 4;

5. Murder pursuant to N.J.S.A. 2C:11-3 or manslaughter pursuant to N.J.S.A. 2C:11-4;

6. Stalking pursuant to section 1 of P.L. 1992, c. 209 (N.J.S.A. 2C:12-10);

7. Kidnapping and related offenses including criminal restraint, false imprisonment, interference with custody, criminal coercion or enticing a child into a motor vehicle, structure or isolated area pursuant to N.J.S.A. 2C:13-1 through 5 and section 1 of P.L. 1993, c. 291 (N.J.S.A. 2C:13-6);

8. Arson pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:17-2;

9. Aggravated assault, which would constitute a crime of the second or third degree pursuant to N.J.S.A. 2C:12-1b;

10. Robbery, which would constitute a crime of the first degree pursuant to N.J.S.A. 2C:15-1;

11. Burglary, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:18-2;

12. Domestic violence pursuant to P.L. 1991, c. 261 (N.J.S.A. 2C:25-17 et seq.);

13. Terroristic threats pursuant to N.J.S.A. 2C:12-3;

14. An attempt or conspiracy to commit any of the crimes or offenses listed in (c)1 through 13 above; or

15. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or offenses described in (c)1 through 14 above.

(d) As an exception to (c) above, the Department may approve the employment at, or administration of, an agency by an individual convicted of a crime specified in (c) above, if all of the following conditions are met:

1. The Department determines that the crime does not relate adversely to the position the individual is employed in pursuant to the provisions of P.L. 1968, c. 282 (N.J.S.A. 2A:168A-1 et seq.);

2. The conviction is not related to a crime committed against a child, as specified in (c) above;

3. The agency documents that the individual's employment or administration of the agency does not create a risk to the safety or well-being of children due to the nature and requirements of the position. As necessary, the agency shall identify restrictions regarding the individual's contact with, care or supervision of children;

4. The agency documents that the individual is uniquely qualified for the position due to specific skills, qualifications, characteristics or prior employment experiences; and

5. The Department determines that the individual has affirmatively demonstrated rehabilitation, pursuant to the factors specified in (e) below.

(e) For crimes and offenses other than those cited in (c) above, an individual may be eligible to administer or work at the agency if the individual has affirmatively demonstrated to the Department clear and convincing evidence of rehabilitation.

1. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

i. The nature and responsibility of the position at the agency that the convicted individual would hold, has held or currently holds, as the case may be;

ii. The nature and seriousness of the offense;

iii. The circumstances under which the offense occurred;

iv. The date of the offense;

v. The age of the individual when the offense was committed;

vi. Whether the offense was an isolated or repeated incident;

vii. Any social conditions that may have contributed to the offense; and

viii. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs or the recommendation of those who have had the individual under their supervision.

2. Upon receipt of documentation submitted by the agency, indicating why the individual at issue should not be precluded from administering, working or residing at the agency, the Department, after assessing the facts on a case-by-case basis, shall make the final determination regarding the individual's rehabilitation, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq.

3. The Department shall make the final determination regarding the suitability of the director of an agency with a criminal conviction other than those cited in (c) above.

4. For a current or prospective staff member with a criminal conviction other than those cited in (c) above, the director of the agency or the agency's board of directors shall make a determination regarding the

individual's suitability upon the Department's determination that the individual has affirmatively demonstrated rehabilitation.

(f) If the director of an agency has knowledge that any individual specified in (a) above has criminal charges pending against the individual, the director shall promptly notify the Department to determine whether or not any action concerning the individual is necessary in order to ensure the safety of the children.

(g) If the Department is notified that any individual specified in (a) above is convicted of a crime or offense after the CHRI has been completed, the Department shall make a determination whether to suspend or revoke the certificate or require the agency to terminate the individual's employment or service, as applicable.

(h) Upon completion of the CHRI for an individual specified in (a) above, the Department shall notify the individual, and the agency as applicable, in writing, of the individual's qualification or disqualification for employment or service under section 4 or 5 of P.L. 2008, c. 114 (N.J.S.A. 9:3-40.5 and 9:3-40.6).

1. If the individual is disqualified, the convictions that constitute the basis for the disqualification shall be identified in the written notice to the individual.
2. The individual shall have 14 days from the date of the written notice of